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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,170	09/23/2003	Michael J. Cullen	203-0150	2233

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ALLEMAN HALL MCCOY RUSSELL & TUTTLE, LLP  
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PORTLAND, OR 97205

EXAMINER
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ARGENBRIGHT, TONY MICHAEL

ART UNIT	PAPER NUMBER
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3747

MAIL DATE	DELIVERY MODE
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08/01/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/670,170	CULLEN, MICHAEL J.
	<b>Examiner</b>	<b>Art Unit</b>
	T. M. Argenbright	3747

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 19 June 2007.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 7,8 and 13-20 is/are allowed.
- 6) Claim(s) 1-6 and 9-12 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All
  - b) Some \*
  - c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

### *Oath/Declaration*

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to **patentability** as defined in 37 CFR 1.56.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Bidner et al (5,617,829). Bidner et al discloses determining the duration of a clean period timer to enable reactivation of a cylinder which was deactivated during a variable displacement operation in column 4, lines 40-58. The duration is disclosed to be a predetermined number of crankshaft revolutions, which is equivalent to engine cycles, which are considered engine events.

Claims 1-4, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Denz et al (5,839,409). In column 1, line 51, through column 2, line 42, Denz et al discloses determining a cylinder reactivation additional fuel quantity duration after fuel cut for vehicle deceleration. Regarding claims 9 and 10, during deceleration, requested torque is zero or negative with the vehicle speed above zero.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Denz et al (5,839,409) in view of Hasegawa et al. Denz et al does not disclose how vehicle deceleration or coasting is determined. Hasegawa et al teaches detection of deceleration using rate of change of vehicle speed in column 10, lines 1-6. It would have been obvious to one with ordinary skill in the art at the time the invention was made to use rate of change of vehicle speed to determine deceleration of the vehicle in the system of Denz et al, since it is a method known in the art as evidenced by Hasegawa et al.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Denz et al (5,839,409) in view of Gonzales, Jr. et al (5,337,715). Denz et al does not disclose deactivation and reactivation of all cylinders together. Gonzales, Jr. et al teaches deactivating all cylinders during deceleration or coasting. It would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Denz et al to shut off fuel to all cylinders during a deceleration event, as taught by Gonzales, Jr. et al, to further improve fuel economy and emissions.

***Allowable Subject Matter***

Claims 7, 8 and 13-20 are allowed.

***Response to Arguments***

Applicant's arguments filed June 19, 2007 have been fully considered but they are not persuasive. It is believed that the additional fuel duration of Denz et al and the duration

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determined by the clean period timer of Bidner et al meet the broad, non-speed-related duration recited in claim 1. Of note, the duration of Denz et al is related to intake duct wall fuel film similarly to applicant's use of fuel puddle mass in Figure 7, step 410.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to T. M. Argenbright whose telephone number is 571-272-4837. The examiner can normally be reached M-Th 6:30am-3:00pm and alt. Fridays 6:30am-2:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen K. Cronin can be reached on 571-272-4536. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*T. M. Argenbright*  
T. M. Argenbright  
Primary Examiner  
Art Unit 3747